

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

STATE OF INDIANA, et al.,)	
)	
<i>Plaintiffs,</i>)	Case No. 1:23-cv-00106-DMT-CRH
)	
v.)	MOTION FOR EXCESS
ALEJANDRO MAYORKAS, et al.,)	PAGES IN REPLY IN SUPPORT
)	OF MOTION TO DISMISS
<i>Defendants.</i>)	
)	

Defendants, through counsel, move to file up to 11 additional pages in reply in support of their Motion to Dismiss, for a total of up to 21 pages. Defendants request expedited consideration of this motion, as their reply is due this coming Tuesday, November 14, 2023.

Defendants filed their Motion to Dismiss the Complaint on September 11, 2023. *See* ECF No. 57. Plaintiffs filed their response in opposition on October 10, 2023. *See* ECF No. 61 (Opposition). On October 18, 2023, the Immigration Reform Law Institute filed an Amicus Brief in support of Plaintiffs' Opposition. *See* ECF Nos. 64, 66, 68 (Amicus Brief). Defendants' reply is due on November 14, 2023. *See* ECF No. 63.

When a party files a dispositive motion, they are permitted to “file a reply not to exceed ten pages.” D.N.D. Civil L.R. 7.1(A)(1). Defendants request leave to file up to an additional 11 pages in reply, for a total of up to 21 pages. Good cause exists for the requested page expansion. In their Reply, Defendants are responding to Plaintiffs’ 39-page opposition brief containing 33.5 pages of argument, as well as the Amicus Brief containing 9.5 pages of argument. Additionally, Plaintiffs’ and Amicus’ briefs assert new arguments concerning whether current parole processes are within the Executive’s statutory parole authority. Opp. 18–21; Amicus Br. 6–13. Although Defendants maintain that this issue is not presented by Plaintiffs’ claims challenging the Lawful

Pathways Rule, Defendants should have the opportunity to respond substantively to these arguments (in addition to the other points raised) in their reply. Defendants contend that the interests of justice will be served by allowing the United States to address Plaintiffs' arguments more fully. Thus, in light of the volume and nature of the briefing and the complex and important nature of the jurisdictional and other issues raised in this case, Defendants request 11 additional pages for their reply.

Counsel for Defendants emailed Plaintiffs' counsel on November 6, 2023, asking whether they oppose the requested page expansion, and followed up by email on November 7 and 8, 2023. At the time of filing, Defendants' counsel has not yet received a response as to Plaintiffs' overall position on this request, although counsel for Plaintiff Alaska (which is not the lead Plaintiff) stated that Plaintiff Alaska does not oppose the request.

Defendants respectfully request that this Court grant this motion and permit them to file a reply of up to 21 pages in support of their Motion to Dismiss.

Dated: November 8, 2023

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

WILLIAM C. PEACHEY
Director

EREZ REUVENI
Assistant Director

By: /s/ Katherine J. Shinnery
KATHERINE J. SHINNERS
Senior Litigation Counsel
U.S. Department of Justice, Civil Division
Office of Immigration Litigation – DCS
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
Tel: (202) 598-8259
Email: katherine.j.shinnery@usdoj.gov

PATRICK GLEN
CHRISTINA P. GREER
Senior Litigation Counsel

Attorneys for Defendants